

FILED ENTERED
LODGED RECEIVED

OCT 22 2003

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE
(PPA) PRODUCTS LIABILITY
LITIGATION,

MDL NO. 1407

This document relates to all
actions

ORDER REGARDING WYETH'S
MOTION TO COMPEL
PRODUCTION OF DOCUMENTS
FROM THE FOOD AND DRUG
ADMINISTRATION

THIS MATTER came before the Court on Wyeth's Motion to Compel Production of Documents from the Food and Drug Administration ("FDA") and the FDA's Motion to Quash. The Court heard argument on these motions telephonically on October 22, 2003 at 2 p.m. EST.

The following people participated in the telephone conference: Richard North being present for Defendant Wyeth, Randy Sherman being present for Defendant Novartis, Michael Storz being present for Defendant GlaxoSmithKline, Nancy Locke being present for Defendant Bayer, David Suggs and James Gotz being present for Plaintiffs, and Laurie Weinstein, Assistant United States Attorney, Patricia Kaeding, and Shoshana Hutchinson being present for the FDA. Laurene Kelly, a court reporter, was also present.

Having heard arguments of counsel and having reviewed the



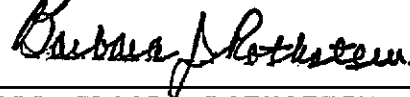
1 briefs and letter briefs submitted by the parties, the Court
2 rules as follows:

3
4 1. Defendant Wyeth shall review its subpoena to the FDA, and
5 eliminate from said subpoena all requested documents dated
6 after the year 2000, and any documents that are duplicative
7 drafts or copies. Wyeth shall furnish this reduced list of
8 requested documents to the FDA no later than the close of
9 business on Friday, October 24, 2003.

10
11 2. The FDA shall provide copies of the documents as to which it
12 asserts the deliberative process privilege for in camera
13 review by the Court no later than noon on Thursday, October
14 30, 2003. These documents should be delivered to the Federal
15 Judicial Center at the Thurgood Marshall Federal Judiciary
16 Building, One Columbus Cir NE, 6th Floor, Washington, DC
17 20002-8003. To the extent possible, the Court expects cover
18 sheets to be provided for each document setting forth the
19 basis for the assertion of the deliberative process privi-
20 lege. Further, the Court instructs the FDA to designate an
21 appropriate individual to furnish this information. Any
22 person within the FDA who has adequate time, familiarity
23 with the documents, and familiarity with the requirements of
24 the deliberative process privilege will be deemed an appro-
25 priate person to review the documents and present them to
26 the Court.

1 3. The Court will convene another telephonic conference with
2 the parties on this matter at 10 a.m. EST on Friday October
3 31, 2003.
4

5 DATED at Seattle, Washington this 22nd day of October, 2002.

6 
7

8 BARBARA JACOBS ROTHSTEIN
9 UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26